

September 9, 2004

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Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12 Street SW, Room TWB-204
Washington, DC 20554

Re: Notice of Ex Parte – Schools and Libraries Universal Service Support
Mechanism, CC Docket No. 02-6

Dear Ms. Dortch:

On August 27, 2004 Ken Keefe, Director of Government Affairs for Avaya, Inc. and Ellen Wolfhagen, a private consultant working on behalf of Avaya, Inc., met with the following Wireline Competition Bureau staff:

Narda Jones
Jennifer Schneider
Mark Nadel
Vicky Robinson

The purpose of this meeting was to discuss the following issues:

SPIN Change Procedures

Avaya indicated ~~that we have encountered~~ situations where ~~an~~ applicant requested a SPIN change using false certifications. This has occurred where the ~~applicant~~ did not follow ~~the applicable~~ state/local procurement laws, ~~or~~ failed to provide the original service provider with notice of ~~the applicant's~~ intent to change the SPIN.

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Deleted: Either of these situations could result in a challenge to the certifications that the applicant makes when it requests the SPIN change.

~~When an applicant submits a false or incorrect certification to the SLD, the original service provider should be entitled to seek correction of the matter either through notification to the SLD, or through legal action in the appropriate state court. Where the challenge is made in state court, the SLD should establish a procedure to suspend the applicant's SPIN change request (and further funding thereof) until the legal action is resolved. We discussed weighing the need to establish such a procedure against the very limited number of instances where such a challenge would arise, to ensure that the rights of all parties are protected.~~

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Consideration of Year 5 Refiles

Avaya indicated that the Year 5 refile applications should be given priority for review over the Year 6 and Year 7 applications because the applicant in the refile

used the best and latest information, often obtaining a better, more cost-effective solution. If the other applications are decided on first, the applicant is put in the position of not knowing whether or not their best solution will be funded, which could lead them to make costly decisions that may be unnecessary. There are only a few of these cases.

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Fraud, Waste and Abuse Concerns

Avaya indicated that it is aware of a number of instances where Avaya (or its prime contractor) had submitted a lower cost bid, but the applicant chose a higher cost solution that provided the same functionality. Avaya was encouraged to report such instances to the Schools and Libraries Division "Code 9" investigatory team.

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Voice Over Internet Protocol (VOIP)

Avaya indicated that there is an inconsistency in the Eligible Services List, which may be unduly confusing to applicants. While VOIP as a service is not eligible, the Eligible Services List indicates that the equipment needed to enable a VOIP application is eligible. Avaya was encouraged to submit reply comments on the Eligible Services List, which it did.

One electronic copy of this Notice is being submitted to the Secretary of the FCC in accordance with Section 1.1206 of the Commission's rules.

Respectfully submitted,

Kenneth L. Keefe
Director, Government Affairs
Avaya, Inc.
490 L'Enfant plaza, SW
Suite 490
Washington, DC 20024

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Avaya